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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION TWO

In re RAY L., et al., Persons Coming  
Under the Juvenile Court Law.

B290292

(Los Angeles County  
Super. Ct. No. DK08200A-C)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent.

v.

BETSAIDA S.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of  
Los Angeles County. Natalie Stone, Judge. Affirmed.

Betsaida Santana, in pro. per., for Defendant and  
Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,  
Acting Assistant County Counsel, and Stephanie Jo Reagan,  
Deputy County Counsel for Plaintiff and Respondent.

Betsaida S. (grandmother), the maternal grandmother of Ray (born 2013), Adele (born 2014), and Liam (born 2015), appeals from an order summarily denying her petition, under Welfare and Institutions Code section 388,<sup>1</sup> seeking to reinstate her visits with the children. We affirm the juvenile court's order.

## **BACKGROUND**

### **Prior appeal**

In March 2016, grandmother filed a section 388 petition seeking to have Ray, Adele, and Liam placed with her, or in the alternative, to have unmonitored or overnight visits with them. Following an evidentiary hearing, the juvenile court denied grandmother's petition, but allowed continued monitored visits between grandmother and the children. Grandmother appealed the denial of her section 388 petition.

While grandmother's appeal was pending, the juvenile court held, on March 9, 2017, a section 366.26 hearing at which the juvenile court terminated parental rights and freed the children for adoption. The juvenile court also terminated grandmother's visits with the children. No party appealed from the order terminating parental rights, and that order became final.

On March 26, 2018, this court ordered grandmother's appeal dismissed as moot because a reversal of the juvenile court's ruling on grandmother's previous section 388 petition would not operate to reverse the order terminating parental

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

rights or to revive grandmother's request for placement. (*In re Ray L.* (Mar. 26, 2018, B278082) [order of dismissal].)<sup>2</sup>

### **Current appeal**

On January 31, 2018, grandmother filed another section 388 petition seeking to modify the juvenile court's March 9, 2017 order terminating her visits with the children. The petition alleged that the information available to the juvenile court at the time of the hearing on grandmother's petition did not show "the extreme bias and discrimination [grandmother] was subjected to at the hands of the social worker[s]."

With regard to new evidence or changed circumstances, the petition alleged that during a recorded meeting between grandmother and a Department supervisor named Jennifer Lopez, "it became abundantly clear that under no circumstance[s] was [grandmother] to be granted custody of any of the minor children" and that Lopez "refused to look into any alleged misconduct or reported interference by any of the social workers in this matter." As to why reinstating visits would be in the children's best interests, the petition alleged that "it is always in the best interest of a child to be around his or her family."

The petition included several attachments. The first attachment was a narrative statement concerning the beneficial bond between grandparents and grandchildren and the Department's alleged bias against grandmother. The second attachment was a series of email exchanges between grandmother and the Department's staff. The third attachment was a written transcription of a conversation among grandmother, Lopez, and certain other unidentified persons.

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<sup>2</sup> We grant the Department's motion that we take judicial notice of this court's order for dismissal of grandmother's previous appeal.

On February 5, 2018, the juvenile court summarily denied grandmother's petition without a hearing. The court found that the petition failed to state new evidence or a change of circumstance and that the proposed change did not promote the best interests of the children.

This appeal followed.

### **Further juvenile court proceedings**

On October 23, 2018, the juvenile court ordered that the adoption process for the children go forward, notwithstanding grandmother's pending appeal. On November 29, 2018, the juvenile court terminated jurisdiction over the children, after finding that Ray, Adele, and Liam were adopted on November 17, 2018, that the adoptions had been finalized, and that the children had been released to their adoptive parents.

## **DISCUSSION**

Grandmother contends the juvenile court erred by summarily denying her section 388 petition because she made a prima facie showing sufficient to establish her right to a full hearing.

### **I. Mootness**

While grandmother's appeal was pending, the juvenile court terminated its jurisdiction in this case. An order terminating juvenile court jurisdiction ordinarily renders an appeal from a previous order in dependency proceedings moot. (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.) Dismissal for mootness in such circumstances is not automatic, however, but "must be decided on a case-by-case basis." [Citations.] (*Ibid.*; *In re Hirenia C.* (1993) 18 Cal.App.4th 504, 517-518 (*Hirenia C.*)).

Because the juvenile court may enter an order of visitation with a nonparent after a dependent child has been adopted by another person (*Hirenia C.*, *supra*, 18 Cal.App.4th at p. 518), and whether it is in the children's best interests to have visitation

with grandmother is still a relevant issue (*ibid.*), we consider the merits of grandmother's appeal.

## **II. Section 388: applicable law and standard of review**

Section 388 accords a petitioner the right to petition the juvenile court for modification of any of its orders based upon changed circumstances or new evidence. (§ 388; *In re Marilyn H.* (1993) 5 Cal.4th 295, 308-309.) To obtain an evidentiary hearing on a section 388 petition, a petitioner must make a prima facie showing that circumstances have changed since the prior court order, and that the proposed change will be in the best interests of the child. (Cal. Rules of Court, rule 5.570(a), (e); *In re G.B.* (2014) 227 Cal.App.4th 1147, 1157.) A prima facie showing is not made unless the facts alleged, if supported by evidence credited at the hearing, would sustain a favorable decision on the petition. (*In re J.P.* (2014) 229 Cal.App.4th 108, 127.) In determining whether the petition makes the necessary showing, the juvenile court must construe the petition liberally and may consider the entire factual and procedural history of the case. (*Ibid.*)

We review the summary denial of a hearing on a section 388 petition for abuse of discretion. (*In re A.S.* (2009) 180 Cal.App.4th 351, 358.) Under that standard, we will not disturb the decision of the juvenile court unless it was arbitrary, capricious, or patently absurd. (*Ibid.*)

## **III. No abuse of discretion**

The juvenile court properly concluded that the 388 petition did not make a prima facie showing that the children's best interests would be served by ordering visitation with grandmother. The petition focuses on grandmother's interactions with the Department, and the social workers' alleged bias against her. Even assuming grandmother made a prima facie showing of new evidence or changed circumstances, her petition did not show that visitation with her would be in the children's best interests.

A general statement in the petition that children benefit from maintaining a positive relationship with grandparents and other extended family members does not make the requisite prima facie showing, as it includes no facts specific to the subject children. A petition that fails to state facts showing it would be in the best interests of the child to modify the order may be denied without a hearing. (Cal. Rules of Court, rule 5.570(d); *In re Zachary G.* (1999) 77 Cal.App.4th 799, 808.) The trial court did not abuse its discretion by summarily denying grandmother's petition without a hearing.

**DISPOSITION**

The order denying the section 388 petition is affirmed.

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\_\_\_\_\_, J.  
CHAVEZ

We concur:

\_\_\_\_\_, P. J.  
LUI

\_\_\_\_\_, J.  
ASHMANN-GERST